

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE PAUL L. MALONEY

v.

Case No. 1:00-cr-183-03

LYTARIAN L. WEAVER,

Defendant.

/

ORDER DISMISSING MOTION TO AMEND SENTENCING JUDGMENT
FINE AND RESTITUTION ORDER

This matter is before the Court on Defendant Lytarian L. Weaver's Motion to Amend Sentencing Judgment's Fine and Restitution Order (Dkt. #107). Defendant's motion was filed on March 25, 2010. A review of court records shows that this Court issued an Order denying Defendant's motion for a modification or reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) on April 16, 2009 (Dkt. #97). Defendant filed a notice of appeal (Dkt. #99) on April 30, 2009. This Court has no jurisdiction to consider the instant motion. The motion was filed after Defendant filed his notice of appeal and the appeal is still pending. Generally, "a timely appeal divests the district court of jurisdiction to reconsider its judgment until the case is remanded by the Court of Appeals." *Dunham v. United States*, 486 F.3d 931, 935 (6th Cir. 2007) (quoting *Pittock v. Otis Elevator Co.*, 8 F.3d 325, 327 (6th Cir. 1993)).

Therefore,

IT IS HEREBY ORDERED that Defendant's Motion to Amend Sentencing Judgment's Fine and Restitution Order (Dkt. #107) is **DISMISSED without prejudice for lack of jurisdiction**.

Date: March 31, 2010

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge